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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/721,058	11/22/2000	Jeffrey W. Chen	6185-221D1XX/09807491	5421

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FULBRIGHT AND JAWORSKI L L P
PATENT DOCKETING 29TH FLOOR
865 SOUTH FIGUEROA STREET
LOS ANGELES, CA 900172576

EXAMINER

JIMENEZ, MARC QUEMUEL

ART UNIT

PAPER NUMBER

3726

DATE MAILED: 09/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/721,058

Applicant(s)

CHEN, JEFFREY W.

Examiner

Marc Jimenez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 17-19** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 recites "those portions of said valve cup" which lacks proper antecedent basis.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 17 and 18** are rejected under 35 U.S.C. 102(b) as being anticipated by Warner (3,417,573).

Warner teaches a container having a heat exchange unit **2** therein for heating or cooling food or beverage (col. 1, lines 52-53) and having a top **20** and a bottom **5**, the bottom **5** defining an opening therethrough (see fig. 3-6) and a flange **1** (see fig. 3-6) surrounding the opening and

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extending away from the bottom **5** and into the container **B**, a valve cup **10** carrying a valve **19** the valve cup **10** having a wall extending through the opening in the bottom **5**, an elastomeric (col. 2, lines 17-18) seal **11** between the flange **1** and the heat exchange unit **2** and between the flange **1** and the valve cup **10**, and means for non-removably affixing the heat exchange unit **2** to the flange **1** including crimping **12** those portions of the valve cup **10** and the heat exchange unit **2** in contact with the flange **1**. Note the protective cap **16** secured to the valve cup **10** and having a downwardly movable surface **15** for activating the valve **19**.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claim 19** is rejected under 35 U.S.C. 103(a) as being unpatentable over Warner in view of Aitchison et al. (5,214,933).

Warner teaches the invention cited above with the exception of the protective cover being snapped in place on the valve cup. Rather, the protective cover is screwed into place.

Aitchison et al. teach a cover that is snapped (col. 4, lines 31-35) in place **24b**.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Warner with a cover that is snapped in place, in light of the teachings of Aitchison et al., in order to provide a connection that is easily removable.

7. **Claims 17 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Warner in view of Chou (4,925,470).

Although Warner calls numeral **20** “bottom”, this surface could clearly be considered a “top” since the container can be opened from this surface.

However, if applicant shows convincing evidence that numeral **20** cannot be considered a top, Chou clearly teaches placing the heat exchange unit at the bottom (fig. 3).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have placed the heat exchange unit at the bottom, in light of the teachings of Chou, in order to provide a top surface that is easily opened.

8. **Claim 19** is rejected under 35 U.S.C. 103(a) as being unpatentable over Warner in view of Chou as applied to **Claim 18** above, and further in view of Aitchison et al.

Warner/Chou teach the invention cited above with the exception of the protective cover being snapped in place on the valve cup. Rather, the protective cover is screwed into place.

Aitchison et al. teach a cover that is snapped (col. 4, lines 31-35) in place **24b**.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Warner/Chou with a cover that is snapped in place, in light of the teachings of Aitchison et al., in order to provide a connection that is easily slidable.

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Response to Arguments

9. Applicant's arguments with respect to **Claims 17-19** have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Interviews After Final

11. Applicant note that an interview after a final rejection will not be granted unless the intended purpose and content of the interview is presented briefly, in writing (the agenda of the interview must be in writing) to clarify issues for appeal requiring only nominal further

consideration. Interviews merely to restate arguments of record or to discuss new limitations will be denied. See MPEP 714.13 and 713.09.

Contact Information

12. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information. M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, or fax (703) 872-9301 or by email to CustomerService3700@uspto.gov.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number is **703-306-5965**. The examiner can normally be reached on **Monday-Thursday and the second Friday of the bi-week, between 9am-6pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 703-308-1513. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

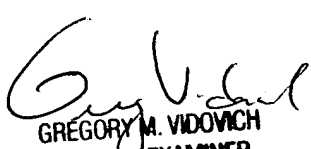
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If the information desired is not provided above, or a number has been changed, please call the general information help line below.

Information Help line	1-800-786-9199
Internet PTO-Home Page	http://www.uspto.gov/


MJ

August 26, 2002


GREGORY M. VIDOVICH
PRIMARY EXAMINER

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